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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,244	08/27/2003	Richard D. Breault	C-2821	6014
34196 7590 04/09/2007 UTC FUEL CELLS, LLC 195 GOVERNOR'S HIGHWAY SOUTH WINDSOR, CT 06074			EXAMINER DOVE, TRACY MAE	
			ART UNIT	PAPER NUMBER
			1745	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/09/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/649,244

Applicant(s)

BREault, RICHARD D.

Examiner

Tracy Dove

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the communication filed on 1/30/07. Applicant's arguments have been considered, but are moot in view of the new grounds of rejection. This Action is made FINAL, as necessitated by amendment.

Election/Restrictions

Claims 1-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse in the reply filed on 6/21/06. Claims 12-21 are drawn to the elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stedman et al., US 3,704,172.

Stedman teaches a fuel cell stack 2 having adjacent cells 4, 6 that are separated by a porous, hydrophobic barrier layer 30. The cell 4 on one side of the barrier layer 30 defines channels for liquid water and the cell 6 on the other side of the barrier layer defines channels for steam (channels not numbered in the Figure). The water and steam flow channels are in vapor communication with each other through the barrier layer. The evaporative cooling means/barrier layer 30 has a liquid inlet 32 and a vapor outlet 34 for open cycle mode operation cooling (2:70-72). As shown in the Figure, liquid enters the fuel cell at inlet 32 and passes through the water

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channels, as the water evaporates the steam crosses the barrier 30 (as indicated by the arrow in the Figure) and enters the vapor channels before exiting the fuel cell at vapor outlet 34. The amount of coolant fed to the inlet 32 is a function of the vapor pressure in the outlet 34 of the evaporative cooling means since the vapor pressure is a function of cell temperature (3:43-49). A pressure relief means 36 (vacuum in the steam channel), which may be a pressure relief valve, is disposed in the vapor outlet 34 (3:1-2). A radiator may be used in combination with the evaporative cooling means (3:12-14). The coolant loop including the radiator may include a accumulator 39 and be recirculated through the fuel cell stack.

Stedman does not explicitly teach the steam that has passed through the barrier layer and through outlet 34 is condensed and returned the reservoir. The steam Stedman explicitly discloses is condensed has not passed though the barrier but is the steam exiting the fuel cell at outlet 28. However, Stedman teaches condensing steam via a radiator so that the steam may be recirculated as liquid coolant. Therefore, the invention as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made because the general concept of condensing steam for use as recycled liquid water coolant is known. One of skill would have found condensing/recycling the steam from outlet 34 obvious in view of the teaching that steam from outlet 28 is condensed/recycled.

Regarding claims 15, 17 and 20, Stedman does not explicitly state the electrolyte layer is a PEM or the operating temperature of the fuel cell.

However, the invention as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made because Stedman teaches hydrogen and oxygen are common fuel and oxidant gases utilized in fuel cells. Hydrogen and oxygen gases are the

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reactants for polymer electrolyte fuel cells. Stedman further teaches different electrolytes known in the art can be utilized in the fuel cell system disclosed and still provide the advantages and features enumerated in Stedman (2:56-67).

Response to Arguments

Applicant's arguments with respect to claims 12-21 have been considered but are moot in view of the new ground(s) of rejection. The declaration filed 1/8/07 is not sufficient to overcome the prior art rejection because claim limitations are given the broadest reasonable interpretation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tracy Dove whose telephone number is 571-272-1285. The examiner can normally be reached on Monday-Thursday (9:00-7:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 4, 2007


TRACY DOVE
PRIMARY EXAMINER